

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Linquista White, <i>et al.</i> , <div style="text-align: right;">Plaintiffs,</div> <div style="text-align: center;">v.</div> Kevin Shwedo, <i>et al.</i> , <div style="text-align: right;">Defendants.</div>	<div style="text-align: center;">Civil Action No.</div> <div style="text-align: center;">2:19-cv-03083-RMG</div>
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NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs submit this notice to apprise the Court of the U.S. Court of Appeals for the Eleventh Circuit’s recent decision in *Jones v. Governor of Florida*, No. 19-14551, 2020 WL 829347 (11th Cir. Feb. 19, 2020) (slip op). *Jones* is supplemental authority relevant to the Court’s resolution of Plaintiffs’ pending Motion for a Preliminary Injunction (ECF No. 35), which has been fully briefed.

The Eleventh Circuit in *Jones* affirmed a preliminary injunction against a Florida state law that conditions the restoration of voting rights for those convicted of a felony upon the payment of fines, fees, and restitution. *See Jones*, 2020 WL 829347 at *1, 8. The court found that the plaintiffs were likely to prevail on their equal protection claim because the statute “punishes those who cannot pay more harshly than those who can” *Id.* at *1.

Relevant to this action, the Eleventh Circuit in *Jones* applied the *Griffin/Bearden* line of cases to invalidate the Florida statute. The court emphasized that there was no fundamental right at issue. *Id.* at *15–16 (“[T]he holding in *Griffin* did not turn on whether there is a fundamental right to an appeal” (citation omitted)); *see also id.* at *21. The Eleventh Circuit nevertheless applied the *Griffin/Bearden* line’s heightened scrutiny, including its four-factor

analysis, because the statute presented “a wealth classification that punishes those genuinely unable to pay . . . more harshly than those able to pay—that is, it punishes more harshly solely on account of wealth.” *Id.* at *9.

The heightened scrutiny of *Griffin/Bearden* applies equally here, where South Carolina punishes those unable to pay traffic tickets by automatically imposing absolute suspensions on their drivers’ licenses, while refraining from that same punishment for those able to pay. *See* ECF No. 35 at 17–23; ECF No. 50 at 6–9; *Jones*, 2020 WL 829347, at *21 (heightened scrutiny applies “when punishment continues for one class and not another simply based on wealth”). And under *Griffin/Bearden*, South Carolina’s automatic and indefinite suspension of driver’s licenses for failure to pay traffic tickets, without any hearing on ability to pay or a determination that nonpayment was willful, violates equal protection and due process. *See* ECF No. 35 at 24–30; ECF No. 50 at 9–13; *Jones*, 2020 WL 829347, at *22–25.

DATED this 28th day of February, 2020

Respectfully Submitted By,

s/ Susan K. Dunn

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